

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

KAREEM GARRETT,	)	
	)	CIVIL ACTION NO. 3:14-cv-31
Plaintiff,	)	
	)	JUDGE KIM R. GIBSON
v.	)	
	)	
DR. MUHAMMAD NAJI et al.,	)	
	)	
Defendants.	)	

**MEMORANDUM ORDER**

This matter is before Magistrate Judge Cynthia Reed Eddy for proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636 and Local Civil Rule 72.

On December 6, 2019, Kareem Garrett ("Plaintiff") filed his Fifth Amended Complaint against medical and corrections staff at SCI-Houtzdale (collectively, "Defendants"). (ECF No. 268). In this complaint, Plaintiff alleges that Defendants violated his rights under the Eighth and First Amendments of the United States Constitution while Plaintiff was in the custody of the Pennsylvania Department of Corrections. (*Id.*).

On January 1, 2022, Defendants filed three separate motions for summary judgment. The first motion sought dismissal of Plaintiff's Eighth, First, and Fourteenth Amendment claims against Debra Younkin, Janet Pearson, Mary Jo Barber, Sergeant Woomer, Vincent DeFelice, Sergeant James, and Officer Hunt (collectively, the "Corrections Defendants") (ECF No. 348). The second motion sought dismissal of Plaintiff's Eighth Amendment claims against Dr. Muhammed Naji ("Dr. Naji"), Deborah Cutshall ("Cutshall"), and Nurse Practitioner Barnes ("Barnes") (collectively, the "Medical Defendants"), as well as Plaintiff's First Amendment claim against Dr.

Naji. (ECF No. 351). The third motion sought dismissal of Plaintiff's Eighth Amendment claim against Dr. Sheila A. Khatri ("Dr. Khatri") (ECF No. 354).

On August 24, 2022, Magistrate Judge Eddy issued three Report & Recommendations ("R&R") on these motions for summary judgment. The first R&R denied the Corrections Defendants' motions for summary judgment on the Eighth Amendment and First Amendment claims but granted their motion on the Fourteenth Amendment claim. (ECF No. 376 at 8–14). The second R&R denied Dr. Naji and Cutshall's motions for summary judgment on the Eighth Amendment and First Amendment claims. (ECF No. 377 at 10–13). It also denied Dr. Naji's motion for summary judgment on the First Amendment claim. (*Id.* at 14). However, it granted Barnes' motion for summary judgment on the Eighth Amendment claim. (*Id.* at 11–12). The third R&R denied Dr. Khatri's motion for summary judgment on the Eighth Amendment claim. (ECF No. 378 at 9–10).

In all three R&Rs, Magistrate Judge Eddy informed the parties that they could file objections to the R&Rs by September 8, 2022. (*See, e.g.*, ECF No. 376 at 14). On September 7, 2022, the Magistrate Judge extended this filing deadline to September 14, 2022. (ECF No. 380). On September 14, 2022, Dr. Khatri filed timely objections. (ECF No. 381). On the same day, Cutshall and Dr. Naji jointly filed timely objections. (ECF No. 382). The Court has reviewed Defendants' objections and finds them meritless.

The Court has also reviewed Plaintiff's objections, timely filed on September 14, 2022, (ECF No. 383), and it agrees that Plaintiff's Fifth Amended Complaint does not assert a claim under the Fourteenth Amendment. Rather, the Complaint asserts claims under the Eighth and First Amendments that may be brought against Pennsylvania state officials because the U.S.

Supreme Court incorporated those constitutional rights against the states through the Fourteenth Amendment. *See, e.g., Estelle v. Gamble*, 429 U.S. 97, 101 (1976); *Gitlow v. New York*, 268 U.S. 652, 666 (1925). Plaintiff made this intended purpose clear in its Opposition to Corrections Defendants' Motion to Dismiss. (*See* ECF No. 301 at 20 n.9). This Court cannot dismiss Plaintiff's Fourteenth Amendment claim because, as Plaintiff asserted no Fourteenth Amendment claim, there is no such claim to dismiss.

Therefore, upon de novo review of the record in this matter, Magistrate Judge Eddy's R&Rs at ECF Nos. 376–78, Defendants' objections, and Plaintiff's objections (as well as his responses to Defendants' objections at ECF Nos. 384, 385), the following order is entered.

AND NOW, this 5<sup>th</sup> day of October, 2022, it is **HEREBY ORDERED** that the Corrections Defendants' Motion for Summary Judgment (ECF No. 348) is **DENIED**.

**IT IS FURTHER ORDERED** that the Medical Defendants' Motion for Summary Judgment (ECF No. 351) is **GRANTED IN PART** and **DENIED IN PART**. Specifically, the Court grants the motion with respect to the Eighth Amendment claim against Barnes and denies the motion with respect to the Eighth Amendment claim against Cutshall and Dr. Naji, as well as the First Amendment claim against Dr. Naji.

**IT IS FURTHER ORDERED** that Dr. Khatri's Motion for Summary Judgment (ECF No. 354) is **DENIED**.

**IT IS FURTHER ORDERED** that the R&Rs of Magistrate Judge Eddy dated August 24, 2022 (ECF Nos. 376–78) are partially adopted as the Opinions of the Court for their reasonings and conclusions regarding Plaintiff's Eighth Amendment and First Amendment Claims. The

Court does not adopt the R&R at ECF No. 376 for its conclusions regarding the Fourteenth Amendment claim.

**BY THE COURT:**

A handwritten signature in black ink, reading "Kim R. Gibson". The signature is written in a cursive style with a large, stylized "K" and "G".

**KIM R. GIBSON**

**UNITED STATES DISTRICT JUDGE**